# Ch.19 - PE and liabilities of Auditor

Topics Covered: (1) Overview of Code of Ethics, Fundamental Principles, Threats and Safeguards
(2) NOCLAR
(3) Relevant provisions of CA Act and Regulations
(4) Part I of First Schedule (Professional Misconduct - Practicing Members)
(5) Part II " " " ( " " - Members in Service)
(6) Part III " " " ( " " - Members generally)
(7) Part IV " " " and Part III of Second Schedule (Other Misconduct - Members Generally)
(8) Part I of Second Schedule (Professional Misconduct - Practicing CA)



Clause - 1 : Breach of confidentiality
Clause - 2 : Certification without Examination
Clause - 3 : Permitting use of name or firm's name in connection with Estimate of Earnings.
(SAE 3400)
Clause - 4 : Expressing opinion on financial statements of an Entity in which member is having S.I.
Clause - 5 : Failure to disclose a material fact (Not disclosed in F.S.)
Clause - 6 : Failure to report a material misstatement
Clause - 7 : Failure to exercise due diligence
Clause - 8 : Failure to obtain information necessary for Expression of opinion.
Clause - 9 : Failure to invite attention to material departure from generally accepted auditing procedures.
Clause - 10 : Failure to keep client's money in separate bank A/c.

## (9) Part II of 2nd Schedule: (Professional misconduct for members generally)

A member of ICAI, shall be deemed to be guilty of professional misconduct, if he:

**Clause-1:** Contravene the provisions of CA Act, 1949; [Ex. 2(2); Sec. 6, Sec. 7, 8, 27]
regulations made thereunder; or [Reg. 189, 47, 48]
Guidelines issued by the Council. → [Council General G/L, Advertisement, Networking]

Reg. 47: Charging premium from Articles
Reg. 48: Monthly stipend by cheque to Articles

**Clause-2:** Being an Employee, discloses the information belonging to employer, acquired in course of employment to others, unless:
(a) permitted by employer; or
(b) required by law.
Note: Similar provision exist for practicing CA under Cl-1, P-I, 2nd Sch.



**Clause-3:** provides false info. to ICAI, its council or any of its Committee, Dir. (Discipline); Board of Discipline, D.C., A.A., or QRB
Note: Not providing info. covered under Cl-2, P-III, 1st Sch.

**Clause-4:** defalcates or embezzles the money recd. in professional capacity.
Ex: Mr. X [Chartered Accountant] employed with ABC (P) Ltd. defalcates the money recd. from employer for the purpose of office expenses.
Note: Cl-10, P-I, 2nd Sch. → deals with non deposit of client's money in separate bank account or using client's money for purposes other than specified.
Cl-10, P-I, 2nd Sch. – applies in case of Practicing CA only.

## (10) Council General Guidelines, 2008 : [Chapter I to Chapter XVII]

**Chapter-I :** CGG, 2008 are applicable to all members, whether in practice or not.

**Chapter-II : Conduct of Member (Employee):**
A member, being an employee is required to exercise due diligence and shall not be grossly negligent.
Note! Similar provisions exist for Practicing CA under cl. 7, P-1, 2nd Sch.

**Chapter-III & IV :** Omitted

Imp.
**Chapter-V : Maintenance of Records of practice!**
A member in practice or firm of CAs, shall maintain and keep proper books of account, in respect of his professional work, that includes (a) Cash book; and
(b) Ledger

Note: Non-maintenance of books of account, as I-T Return is on the basis of presumptive taxation u/s 44ADA of I-tax Act, 1961, also considered to be a violation of Guidelines.

**Chapter-VI : Specified no. of tax audit assignments u/s 44AB of I-tax Act, 1961:**

- For Individual Member / Proprietorship = 60 Tax Audit
- " Partnership Firm of CAs = 60 tax audits per partner

[Members in part-time practice not considered]

Notes: (i) Audit of H.O. + ≥1 branches of same entity = 1 Audit

(ii) Audit of H.O. [No Branch] = 1 "

(iii) Audit of ≥ 1 Branch of same entity =

(iv) Audit conducted u/s 44AD, 44ADA, 44AE of I-Tax Act, 1961:

will not be considered in ceiling limit of 60

(v) In case of a firm of CAs, tax audit reports can be signed by any partner on behalf of firm.

(vi) If a Member is a partner of firm as well as doing practice on his own, maximum no. of audits on behalf of that member cannot exceed 60.

Ex: Mr. X → accepts 42 tax audits in Individual Capacity.

Mr. X is also a partner of ABX and Associates [Firm]

How much audit firm can accept on behalf of Mr. X ⟶ 60 − 42 = 18

(vi) Ceiling limit of 60 consists of audit of all entities, i.e whether individual, HUF, firm, corporate etc.



## Chapter - VII : Non-payment of Undisputed audit fees:

- A practicing CA is not allowed to accept statutory audit of a Entity, if undisputed audit fees of predecessor auditor is unpaid.
- However, this requirement is not applicable in case of Sick Units.

Sick Unit: Units registered ≥ 5 years and Accumulated losses at end of FY ≥ NW

**Example:** Mr. Y appointed as auditor in place of Mr. X

- No communication made by Y to X
  - → Professional Misconduct under Cl. 8, P-1, S-I
- Y sends communication to X
  - Under Certificate of Posting
    - → Professional Misconduct under Cl. 8, P-1, S-I
  - By RPAD / Hand with written Ack., UDIN / Regd. mail.
    - X reply → Non compliance of Sec. 139 and 140
      - Y accepts audit
        - Y → Professional Misconduct U/C - 9, P-1, S-I
    - Non-payment of undisputed audit fee.
      - Sick unit
        - Y accepts audit
          - No Misconduct
      - Not a sick unit
        - Y accepts audit
          - Y - Professional Misconduct U/C - 1, P-2, S-II due to Contravention of Ch-VII of Council General Guidelines, 2008
    - Issue of Qualified report.
      - Y accepts audit
        - No Misconduct

# Chapter-VIII : Specified no. of audit assignments in case of a Company!

(a) For Individual CA / Proprietor CA = 30 audits

(b) " Partnership Firms = 30 Audit per partner

- While Computing specified no. of 30 audit assignments, audit of private companies will be included.
- However, audit of OPC and Dormant Companies will not be considered in ceiling limit of 30.

Tax Audit
- F.S.
- Form 3CD

Company. → Audited under company law will be accepted

Non-Corporate (Ind/HUF/FIRM)

**Note:** As per Sec. 141(3)(g) of Companies Act, 2013, ceiling limit is 20 audits per person. It does not Include audit of OPC, small company Dormant company, Private Companies having PUC < 100 Cr.

**Example:**

| | | | Council Guidelines | | Company law | | |
|---|---|---|---|---|---|---|---|
| | OPC | Dormant | Small Co. | Pvt-PUC < 100 Cr | Pvt. PUC ≥ 100 Cr | Public | Violation |
| Situation-1 | 20 | 10 | 4 | 10 | 15 | 5 | CGG |
| Situation-2 | 50 | 5 | 3 | 6 | 15 | 6 | Company law |
| Situation-3 | 20 | 20 | 4 | 5 | 12 | 8 | NO |
| Situation-4 | 15 | 10 | 6 | 8 | 13 | 8 | Both CGG and Company law |

## Record of Audit Assignments:

Practicing CA / Firm of CAs, shall maintain a record of audit assignments, including the following:

| S. No. | Name of Company | Regn. No. of co. | Date of appointment | Date of Acceptance | Date on which ADT-1 filed with ROC |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |

# Ch. 19 - "PE and Liabilities of Auditor"

## (10) Council General Guidelines, 2008:

### Chapter- IX: Acceptance of Audit in Case of Certain Entities:

A member in practice or a firm of CAs shall not accept statutory audit in case of PSU / Govt. Companies / Listed Companies and other Public Companies having T/o ≥ 50 Cr. in a year, if:

↓

he is rendering 'other work or service'* to that Entity at a remuneration which is higher than the fees payable for the audit

(i.e. Remuneration for other work or services shall be less than the audit fees payable)

* Management Consultancy and other services prescribed u/s 2(2)(iv).



**Note:** Statutory auditor of a company cannot render certain services as prescribed u/s 144 of Companies Act, 2013, to the Company, its holding or subsidiary, directly or indirectly.

- Entity
  - Company
    - Services prescribed u/s 144 ⟶ Cannot be accepted
    - Other [Covered u/s 2(2)(iv) (Not covered u/s 144 of Companies Act, 2013) ⟶ Can be accepted at a fees lower than audit fees
  - PSU ⟶ Services Covered u/s 2(2)(iv) ⟶ "

Act

| CA Act, 1949 | Companies Act, 2013 |
| --- | --- |
| (i) **Practicing CA** can render Management Consultancy and other services as prescribed u/s 2(2)(iv) | – No such provision exist – |
| (ii) Practicing CA, (who is auditor of a PSU, Govt. Co, Listed Co., Public Co. T/o > ₹ Sos) Can not render Mngt. Consultancy and other services to same entity, if audit fees payable < Rem. for Mngt. Consultancy. | (ii) Auditor of a Co. cannot render directly or indirectly services prescribed u/s 144 to the company, its holding and subsidiary. |

**Chapter - X : Acceptance of audit in case of Indebtedness:**

A practicing member shall not accept audit (Statutory audit) of an entity in which he is indebted, or providing any guarantee or security, for an amount :

(a) as prescribed by law under which audit is conducted; or

(b) ₹ 1,00,000 (if no provision exist in the law).

**Note:** Audit fees received on progressive basis cannot be considered as any advance or indebtedness.

**Chapter - XI : Directions in case of unjustified removal of auditor:**

Incoming auditor shall comply with the directions given by the Council of ICAI.

**Chapter - XII : Minimum scale of fees : Repealed**

**Note:** Committee of ICAI, prescribed a scale of minimum fees for members in practice, which is recommendatory in nature.

**Chapter - XIII : Guidelines on tenders :** Already covered in Cl. 6, P-I, Sch-I

**Chapter - XIV : UDIN: (Unique Document Identification Number)**

A member in practice shall generate UDIN for all kinds of Certification, Tax Audit Reports, Other audits, assurance and attestation functions undertaken / signed by him.

**Chapter - XV : Guidelines for Networking :** "To be covered separately"

**Chapter - XVI : Guidelines for LOGO :** Members shall use common logo prescribed by ICAI.

- Do not change the design, colours including background.
- Refrain from rotating or tilting the logo.

**Chapter - XVII : Guidelines for corporate form of practice :** "To be covered separately"

# Misc. Topics

(11) Guidelines for Networking:

(12) " " Corporate Form of Practice!

(13) Council Guidelines for Advertisement, 2008:

(14) Self Regulatory Measures:

"Recorded video"

(15) Recent Decisions of Ethical Standard Board: